

Report of the Special Rapporteur on the independence of judges and lawyers, Ms. Gabriela Knaul

Summary

The present report is the last submitted by Ms. Gabriela Knaul before her successor takes up her functions. Therefore, she has decided to seize the opportunity to look back at the work accomplished during her six years as a mandate holder.

After presenting her recent activities, the Special Rapporteur considers the country visits undertaken, the communications sent and media releases issued, as well as the other activities carried out throughout her tenure.

She then reviews and analyses the many issues she addressed in her annual thematic reports. The review is organized into seven thematic clusters: education, training and capacity-building of judges, lawyers and prosecutors; access to justice and legal aid; challenges to the independence and impartiality of judges; protecting the independence of lawyers; safeguarding the independence and impartiality of prosecutors and the autonomy of prosecution services; equality before the courts and fair trial guarantees; and impunity for human rights violations. The thematic clusters allow the Special Rapporteur to show the interconnectedness of the themes she has addressed during the past six years and their relevance to the mandate in different contexts and from different perspectives.

She hopes that the comprehensive overview of the work and activities undertaken contained in the present report will prove useful for the future endeavours of her successor, as well as bring to the attention of Member States and other stakeholders the diverse and numerous issues related to the independence of judges, lawyers and prosecutors, and a proper and fair administration of justice.

The Special Rapporteur stresses that, in the light of what she has witnessed during her mandate, the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors, together with the Bangalore Principles on Judicial Conduct and relevant conventional provisions, in particular the International Covenant on Civil and Political rights, remain absolutely essential to the promotion and protection of the independence of judges, lawyers and prosecutors throughout the world.

Looking towards the future, the Special Rapporteur pleads for renewed attention to and promotion of existing international laws, standards, principles and guidelines on judicial independence and impartiality and the independence of the legal profession. The most fundamental rights of judges, lawyers and prosecutors are still blatantly violated on a daily basis across the world, and that should deserve the full attention of Member States.

I. Introduction

1. The present report is the last submitted to the General Assembly by Ms. Gabriela Knaul in accordance with Human Rights Council resolution 26/7. Her successor, Ms. Mónica Pinto, takes up her functions as Special Rapporteur on the independence of judges and lawyers on 1 August 2015. She wishes Ms. Pinto success in all her endeavours.

2. The Special Rapporteur decided to seize the opportunity to look back at the work accomplished during her six years as a mandate holder. She hopes that the comprehensive overview of the work and activities undertaken contained in the present report will prove useful for the future endeavours of her successor, as well as bring to the attention of Member States and other stakeholders the diverse and numerous issues related to the independence of judges, lawyers and prosecutors, and a proper and fair administration of justice.

3. In section II, the Special Rapporteur first presents her recent activities. She then considers the country visits undertaken, the communications sent and media releases issued, as well as the other activities carried out throughout her tenure. In section III, she reviews and analyses the many issues she addressed in her annual thematic reports. The review is organized into seven thematic clusters: education, training and capacity-building of judges, lawyers and prosecutors; access to justice and legal aid; challenges to the independence and impartiality of judges; protecting the independence of lawyers; safeguarding the independence and impartiality of prosecutors and the autonomy of prosecution services; equality before the courts and fair trial guarantees; and impunity for human rights violations. The use of thematic clusters allows the Special Rapporteur to show the interconnectedness of the themes she has addressed and their relevance in different contexts.

II. Six years of activities of the Special Rapporteur on the independence of judges and lawyers

A. Recent activities

4. The activities carried out by the Special Rapporteur from the issuance of her previous report to the General Assembly to 28 February 2015 are listed in her most recent report to the Human Rights Council (A/HRC/29/26 and Corr.1). From 1 March to 31 July 2015, she participated in the activities set out below.

5. On 17 June 2015, the Special Rapporteur participated as a panellist in a side event to the twenty-ninth session of the Human Rights Council entitled "Securing the independence and effectiveness of the judiciary: European initiatives and perspectives in a global context", organized by the Permanent Delegation of the Council of Europe to the United Nations Office and other international organizations in Geneva. In her statement, she reviewed her six years as a mandate holder and addressed the role played by European standards and jurisprudence regarding the independence of the judiciary in a global context.

6. On 18 June, the Special Rapporteur presented her last annual thematic report to the Human Rights Council, which addressed the protection of children's rights in the justice system (A/HRC/29/26 and Corr.1). She also presented the

reports on her official visits to Qatar (A/HRC/29/26/Add.1), the United Arab Emirates (A/HRC/29/26/Add.2), Tunisia (A/HRC/29/26/Add.3) and Portugal (A/HRC/29/26/Add.4).

7. In her statement before the Human Rights Council, the Special Rapporteur reiterated her serious concerns about acts of reprisals against individuals and groups who cooperate or seek to cooperate with the United Nations human rights mechanisms, including those who cooperate and meet with Special Rapporteurs during official country visits and those, in particular judges, who implement the decisions of human rights mechanisms.

8. Also on 18 June, the Special Rapporteur participated in a side event on reprisals against the judiciary in Ukraine organized by the International Association of Democratic Lawyers. In her presentation, the Special Rapporteur focused on the centrality of the independence of judges and lawyers to combating impunity, strengthening respect for the rule of law and consolidating democracy.

9. On 19 June, the Special Rapporteur presented the findings and recommendations of her country visit to the United Arab Emirates at a side event to the Human Rights Council entitled "Human rights and challenges facing legal and judicial systems in the United Arab Emirates" and organized by the International Center for Justice and Human Rights.

B. Country visits

10. During her six-year mandate, from 1 August 2009 to 31 July 2015, the Special Rapporteur was able to carry out 14 official country visits to all five regional groups. The countries visited were:

1. Colombia, 2009 (A/HRC/14/26/Add.2);
2. Mexico, 2010 (A/HRC/17/30/Add.3);
3. Mozambique, 2010 (A/HRC/17/30/Add.2);
4. Bulgaria, 2011 (A/HRC/20/19/Add.2);
5. Romania, 2011 (A/HRC/20/19/Add.1);
6. Turkey, 2011 (A/HRC/20/19/Add.3);
7. Pakistan, 2012 (A/HRC/23/43/Add.2);
8. El Salvador, 2012 (A/HRC/23/43/Add.1);
9. Maldives, 2013 (A/HRC/23/43/Add.3);
10. Russian Federation, 2013 (A/HRC/26/32/Add.1);
11. Qatar, 2014 (A/HRC/29/26/Add.1);
12. United Arab Emirates, 2014 (A/HRC/29/26/Add.2);
13. Tunisia, 2014 (A/HRC/29/26/Add.3);
14. Portugal, 2015 (A/HRC/29/26/Add.4).

11. The Special Rapporteur wishes to reiterate her gratitude to the respective governments for their invitations and cooperation. She hopes that her

recommendations have been seriously considered and appropriate measures taken to implement them. She also hopes that her successor will be in a position to follow up on the implementation of those recommendations as well as look into any new developments concerning the independence of the justice system and the legal profession in those countries.

12. Finally, the Special Rapporteur wishes to note that respecting a regional balance with regard to her country visits has not been an easy task. Indeed, too many States still refuse to accept country visits by special procedures mandate holders or merely ignore the requests for invitation they receive. For that reason, she wishes to once again call upon States to seriously consider responding positively to requests for country visits. In that context, she would like to reiterate her gratitude to the Governments of France, Germany, Greece, Iraq, Kenya, Morocco, Nepal, Spain and the United States of America for inviting her to conduct official visits and regrets that she was unable to carry out such visits before the end of her mandate.

C. Communications and media releases

13. During the past six years, the Special Rapporteur sent a total of 581 communications to 103 Member States from all regional groups, and to 3 other entities, in the form of urgent appeals (432 or 74.4 per cent) and allegation letters (149 or 25.6 per cent). The communications addressed a variety of issues related to the situation of individual judges, lawyers and prosecutors; the structure and functioning of the judiciary and the administration of justice; access to justice; and the right to due process of law and a fair trial.

14. A large majority of the communications (88.1 per cent) were sent jointly with other special procedures (93.5 per cent of urgent appeals and 72.5 per cent of allegation letters were sent jointly). That reflects the reality that situations affecting judges, lawyers and prosecutors, the functioning of the justice system and the right to a fair trial very often occur in contexts in which other democratic institutions are also at risk or in which a variety of human rights are being violated, such as the right not to be subjected to arbitrary arrest or detention, the right not to be subjected to torture and ill-treatment, the right to freedom of opinion and expression, the right not to be subjected to discrimination or the rights to freedom of peaceful assembly and association.

15. The Special Rapporteur wishes to emphasize that the communications exclusively reflected information that was transmitted to her and subsequently acted upon. Complaints that contained insufficient information or fell outside the scope of the mandate, or instances in which the Special Rapporteur was not in a position to act owing to time, workload or other constraints, are not reflected in the numbers. Problems concerning the independence and impartiality of the justice system are also not limited to the States or entities to which communications were sent. Therefore, the fact that a particular State or entity may not have received a communication should not be interpreted as indicating that there are no challenges concerning the independence and impartiality of the judiciary and the administration of justice in that State or entity.

16. The Special Rapporteur received replies to approximately 41 per cent of her communications. In her opinion, that percentage is still too low. She remains concerned that some replies merely acknowledged receipt of the communication or

rejected the content of the communication without providing any substantive explanations. Some replies were also received after a considerable delay. For that reason, she wishes to encourage States to reply to communications sent by the mandate holder within reasonable deadlines and address the specific violations and concerns identified therein in a meaningful way, in particular when the communications concern time-sensitive issues that may have irreversible consequences for the individuals who are the subject of the appeals.

17. During her six-year mandate, the Special Rapporteur also increasingly used media releases to bring public attention to situations she identified as being particularly concerning, as well as to give visibility to issues addressed in her thematic reports. Excluding press releases and public statements related to country visits, she issued a total of 66 media releases; 51 of those addressed specific country situations across regional groups, 8 focused on particular themes related to the mandate and 7 disseminated the findings and recommendations of her thematic reports. As in the case of communications, a majority of media releases (46 or 69.7 per cent) were sent jointly with other special procedures.

D. Other activities

18. During the past six years, the Special Rapporteur has participated in a large number of events and conferences relevant to her mandate and organized by different stakeholders, including non-governmental organizations, professional associations and United Nations entities and agencies. Those events provided a valuable opportunity for the Special Rapporteur not only to present the mandate and its procedures, but also to gather specific information and receive feedback and suggestions on issues related to the mandate and its discharge. The conferences and other events attended are detailed in the relevant sections of the Special Rapporteur's annual thematic reports.

19. In addition, on 28 and 29 November 2012, the Special Rapporteur organized a regional consultation on the judiciary in Central America in Panama City and presented a report thereon to the Human Rights Council (A/HRC/23/43/Add.4). The consultation was attended by experts in the judicial service, academics, representatives of civil society, representatives from the Inter-American Commission on Human Rights and the regional office for Central America of the Office of the United Nations High Commissioner for Human Rights and government representatives from the seven countries of the region.

III. Review and assessment of the main issues addressed during six years of the mandate

20. Over the course of six years, the Special Rapporteur authored and presented 11 annual thematic reports to the Human Rights Council and the General Assembly, excluding the present report, addressing a variety of issues of relevance to her mandate:

1. Continuing education on human rights as a guarantee for the independence of judges and lawyers, 2010 (A/HRC/14/26);

2. The role of the criminal justice system in combating impunity, 2010 (A/65/274);
3. Gender and the administration of justice, 2011 (A/HRC/17/30 and Corr.1);
4. Gender in the criminal justice system: the role of judges and lawyers, 2011 (A/66/289);
5. The independence and impartiality of prosecutors and prosecution services, 2012 (A/HRC/20/19);
6. Judicial corruption and combating corruption through the justice system, 2012 (A/67/305);
7. Legal aid, 2013 (A/HRC/23/43 and Corr.1);
8. Military tribunals, 2013 (A/68/285);
9. Judicial accountability and State responsibility and the right to a remedy, 2014 (A/HRC/26/32);
10. Justice and the post-2015 development agenda, 2014 (A/69/294);
11. Protecting children's rights in the justice system, 2015 (A/HRC/29/26 and Corr.1).

21. In addition, the Special Rapporteur presented an advance report on her global thematic study on human rights education and training of legal professionals to the twentieth session of the Human Rights Council in 2012 as requested in Human Rights Council resolution 15/3 (A/HRC/20/20). The study analysed the replies received from 70 States and other entities to a questionnaire circulated by the Special Rapporteur which focused on the structural elements of existing human rights courses and training initiatives, as well as other relevant information from diverse institutions and non-governmental organizations.

22. In the following sections, the Special Rapporteur reviews and assesses the main issues she addressed in her annual thematic reports. Her considerations are organized into seven thematic clusters reflecting the priorities she had set for her tenure.

A. Education, training and capacity-building of judges, lawyers and prosecutors

23. The Special Rapporteur devoted her first annual thematic report (A/HRC/14/26) to the need for education and continuing training (also often referred to as on-the-job education or training) in international human rights law for judges, prosecutors and lawyers. She demonstrated that effective and ongoing capacity-building of all actors of the justice system, in particular judges, prosecutors and lawyers, plays a decisive role in their independence, impartiality and competence.

24. Within their respective functions, lawyers, prosecutors and especially judges have an obligation and responsibility to uphold international human rights law. For that reason, they must be aware of and trained to use human rights law, principles and jurisprudence, as well as receive education regarding the obligations thereof. Appropriate human rights education and training is therefore essential in order to

enable judges, prosecutors and lawyers to apply international human rights law, principles and jurisprudence in the consideration of domestic cases.

25. At the pre-service level, particular attention must be placed on the curricula of law schools or faculties to ensure that they include the study of international human rights law and international criminal law. Subsequently, adequate education and training opportunities must be available both upon initial appointment to office and throughout the career in the form of continuing training and capacity-building, and should include mandatory courses on international human rights law, jurisprudence and the related international obligations of States. The Special Rapporteur highlighted the central role played by national training institutions in providing for such opportunities. With regard to lawyers, she noted that initial and continuing training should ideally be offered by institutions placed under the aegis of bar associations.

26. Starting with her country visit to Mozambique in 2010, the Special Rapporteur has systematically dedicated a section of her country visit reports to the education, training and capacity-building of judges, lawyers and prosecutors. In that section, she looks at both positive achievements in that sector, including the existence of national training institutions, and pressing concerns, including the lack of continuing training opportunities, the lack of financial and other resources to support sustainable educational and training programmes, the lack or scarcity of specific training on human rights and the poor quality of available education and training.

27. The Special Rapporteur continued to address the importance of quality human rights education and training as a recurring theme in several subsequent annual reports. In her report of 2012 to the Human Rights Council (A/HRC/20/19), she looked in more detail at the specific education and training requirements necessary to ensure the competence and impartiality of prosecutors. She has also underlined the centrality of adequate human rights education and training to foster the capacity of judges, prosecutors and lawyers to combat impunity and ensure accountability for human rights violations (see A/65/274, para. 48).

28. The Special Rapporteur has also emphasized that inadequate education and training, including a lack of training on corruption, anti-corruption measures and judicial integrity, can contribute to the corruptibility of the judiciary (see A/67/305, in particular paras. 67 and 69). Education and training can contribute to significantly changing attitudes that otherwise would be lenient or even favourable to corrupt conduct, and therefore pave the way for strengthening the integrity of the judiciary. For those reasons, she recommended that all actors of the justice system, especially judges, prosecutors and lawyers, be properly educated and trained with regard to their respective codes of ethics or conduct, national and international legislation on corruption, international standards relating to the proper discharge of their functions and international human rights law.

29. In her report of 2013 to the Human Rights Council, the Special Rapporteur underlined that the quality of legal aid depends first and foremost on the qualifications and training of legal aid providers, who include lawyers and paralegals. She recommended that national legislation on legal aid ensure that professionals working for the legal aid system possess the qualifications and training appropriate for the services they provide (see A/HRC/23/43, para. 56).

30. The Special Rapporteur has also demonstrated the necessity of quality education and proper training to enable judges, prosecutors and lawyers to discharge their functions in a manner that ensures equality of treatment of all before the courts, in particular for women (see A/HRC/17/30 and Corr.1 and A/66/289). An impartial justice system requires that judges do not allow their judgement to be influenced by personal bias or prejudice, nor harbour preconceptions about the particular case before them. Prosecutors too must not be influenced by prejudices or stereotypes in the discharge of their professional functions.

31. In that context, the Special Rapporteur highlighted that changing attitudes and eliminating stereotypes and prejudices, including those based on gender, requires institutionalized and sustained efforts in the form of training programmes, continuing education and capacity-building in international human rights law, jurisprudence and related obligations, as well as national laws against discrimination which too often remain unknown or are not applied (see A/66/289, para. 35).

32. Most recently, the Special Rapporteur emphasized that appropriate education, training and capacity-building are fundamental to ensuring that those who come into contact with children in the justice system, especially judges, prosecutors and lawyers, respect, protect and fulfil children's rights. Understanding children's development is fundamental to understanding their behaviour and their capacity to participate in legal proceedings, including their ability to interact and communicate with those who assist them, comprehend what is at stake and make informed choices about their situation. Building a child-friendly justice system therefore requires institutionalized and sustained efforts in the form of specialized training programmes, continuing education and capacity-building that focus on relevant international human rights norms and standards, fundamental principles and related State obligations (see A/HRC/29/26, paras. 86, 88 and 89).

33. The Special Rapporteur hopes that her successor will continue to advocate for the study of international human rights law to be included in the curricula of all law faculties, schools for the judiciary and academic programmes of bar associations, and for institutional training on international and regional human rights law, principles and jurisprudence, and the obligations thereof, to be established and made compulsory for all judges, prosecutors and lawyers.

B. Access to justice and legal aid

34. Following in the footsteps of her predecessor, the Special Rapporteur has devoted extensive attention to concerns relating to access to justice, and legal aid in particular, and considers those themes to be central aspects of the mandate. Throughout the Special Rapporteur's tenure, issues related to access to justice have featured prominently in both her annual thematic reports and country visit reports.

35. Access to justice was one of the fundamental issues addressed in the report of the Special Rapporteur to the sixty-ninth session of the General Assembly (A/69/294), where she demonstrated the need to integrate the concept of the rule of law, including the central element of access to justice, into the post-2015 development agenda.

36. The Special Rapporteur has determined that access to justice operates as a right in itself and as a requirement for the fulfilment of other rights. She emphasized the United Nations Development Programme's definition of access to justice, according to which access to justice is the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards (see A/69/294, para. 47). The Special Rapporteur has gone on to stress that access to justice should be conceived in the broadest sense possible and entails the existence of a well-functioning judiciary and the ability of individuals to obtain an appropriate remedy in a reasonable time frame.

37. The Special Rapporteur has also stressed that access to justice is not merely access to the judiciary in a given State, but also includes the means to access less formal mechanisms that are able to assist people to claim and enforce their rights, including ombudsmen offices, conciliators, mediators and human rights institutions.

38. Access to justice is a legally complex issue because it constitutes the means for realizing and restoring rights, but it is also a fundamental human right in itself. The Special Rapporteur has explained that access to justice is a central component of many specific rights pertinent to the mandate for the independence of judges and lawyers, including the right to equality before the courts, the right to an effective remedy, the right to liberty and the right to effective judicial protection (see A/HRC/17/30, para. 37). She has also highlighted barriers to access to justice that must be removed for the full realization of that right, including financial barriers, barriers relating to information, social or cultural barriers, physical barriers and legal and normative barriers.

39. The Special Rapporteur has also focused on legal aid as an essential component of access to justice, and devoted her report of 2013 to the Human Rights Council to the question (A/HRC/23/43 and Corr.1). In that context, she has urged States to develop and implement effective legal aid schemes in order to enable citizens to fully enjoy their human rights. Indeed, as a component of the right to access justice, legal aid is both a right in itself and a procedural guarantee for the exercise and enjoyment of other rights.

40. Although the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems focus only on the provision of legal aid in the criminal justice system, the Special Rapporteur considers that they contain the most comprehensive legal instrument to date for developing and strengthening legal aid systems at the national level. The Principles and Guidelines have construed the term "legal aid" to include legal advice, assistance and representation for victims and for arrested, prosecuted and detained persons in the criminal justice process, provided free of charge for those without means. Furthermore, legal aid includes legal education, access to legal information and other services provided for persons through alternative dispute mechanisms (see A/HRC/23/43, para. 8).

41. Moreover, the Special Rapporteur strongly advocates for legal aid services to be available to all individuals engaged with the justice system, including criminal and non-criminal proceedings. The Special Rapporteur has consistently reminded States that, under international law, States bear the primary responsibility to adopt all appropriate legislative, judicial, administrative, budgetary, educative and other measures towards the full realization of the right to legal aid for all individuals, regardless of nationality, gender, age or other status.

42. The Special Rapporteur considers that the aim of legal aid is to contribute to the elimination of obstacles that impair or restrict access to justice by providing assistance to people otherwise unable to afford legal counsel, representation and access to the court system. For that reason, she strongly believes that the definition of legal aid should be as broad as possible and include the provision of effective legal assistance not only at all stages of the criminal justice process, but also at the pretrial stage and in any non-criminal judicial or extrajudicial procedures aimed at determining rights and obligations.

43. During her mandate, the Special Rapporteur has devoted particular attention to issues related to gender and women's rights. In that context, she has addressed specific issues related to women's access to justice and legal aid. In her report of 2011 to the Human Rights Council (A/HRC/17/30 and Corr.1), she addressed improving women's access to justice by addressing the feminization of poverty and developing a gender-sensitive judiciary. In her report to the General Assembly of the same year (A/66/289), she advocated for a gender-representative and gender-sensitive judiciary. Finally, the Special Rapporteur addressed issues related to the provision of legal aid for women in her report dedicated to the topic (A/HRC/23/43 and Corr.1).

44. More specifically, the Special Rapporteur has identified many challenges affecting women's access to justice, including laws and practices that discriminate against women, policies that disregard the goal of gender equality and the feminization of poverty (see A/HRC/17/30, para. 29). Despite widespread ratification of the Convention on the Elimination of All Forms of Discrimination against Women, major gender-specific obstacles remain that effectively block women's access to the justice system. In order to overcome those obstacles, the Special Rapporteur has urged States to develop a gender-sensitive justice system by adopting programmes that address gaps in women's protection in social policies and adopt legal aid policies aimed at assisting women throughout their engagement with the legal system.

45. Finally, the Special Rapporteur focused her last thematic report to the Human Rights Council on the issue of protecting children in the justice system (A/HRC/29/26 and Corr.1). Central to that report was the importance of access to justice and legal aid for children. In that context, she has stressed that equal access to justice means States must adopt special measures to ensure meaningful access by children to the legal system, both formal and informal.

46. In her report, the Special Rapporteur noted in particular that child-friendly legal aid is inextricably connected to the right to legal assistance and access to justice and therefore must also be guaranteed by States. Looking at the role of lawyers in the administration of child-friendly judicial procedures, she explained that lawyers have an essential part to play in facilitating children's access to the justice system because child-friendly legal aid has the potential to promote and protect children's substantive rights (see A/HRC/29/26, para. 38).

47. Throughout her mandate and in a variety of contexts, the Special Rapporteur has relentlessly stressed the importance of access to justice and legal aid, as they are both a human right in themselves and a means to enforce and realize other human rights. That is illustrated by the fact that all of her country visit reports include a section addressing her concerns on access to justice and legal aid in the respective States and proposing specific measures to improve that access.

C. Challenges to the independence and impartiality of judges

48. The parameters to effectively guarantee the independence of judges, both in their individual and institutional aspects, had been analysed in detail in a report by the Special Rapporteur's predecessor (A/HRC/11/41). Identified in that report as essential institutional parameters were the separation of the judicial function from other branches of the State; the guarantee of independence at the constitutional level; the selection and appointment process; the guarantee of the "lawful" judge; judicial budget; freedom of association and expression; the assignment of court cases; independence within the judiciary; and the investigation into allegations of improper interference. The elements highlighted as central to the individual status of judges were tenure and irremovability, immunity, promotion and conditions of service, including judicial salary, human and material resources and security and training.

49. Over the course of her tenure, the Special Rapporteur has endeavoured to pay systematic attention to those safeguards for judicial independence, in particular during her country visits. She has also further elaborated on the content of some of the parameters in various thematic reports.

50. For instance, the Special Rapporteur analysed the role played by judges to ensure accountability for human rights violations in the national criminal justice system (see A/65/274), or to protect the rights of children who come into contact with the law (see A/HRC/29/26 and Corr.1). In her report to the General Assembly in 2013 (A/68/285), she addressed the specific issues and concerns related to the independence and impartiality of judges sitting on military courts. In the context of her report on prosecutors (A/HRC/20/19), she addressed the importance of the clear separation of their functions from those of judges.

51. In the report she devoted to judicial corruption (A/67/305), the Special Rapporteur looked into the specific parameters necessary to safeguard judges from conditions conducive to corruption and strengthen their capacity to counter and combat all manifestations of judicial corruption. She noted that a judiciary whose independence is not firmly institutionalized and adequately protected can easily be corrupted or co-opted by interests other than those of applying the law in a fair and impartial manner. She also addressed the issue of judicial integrity and the tension existing between the requirement for independence and the necessity of holding judges accountable.

52. The Special Rapporteur looked at the issue of judicial accountability in more detail in her report of 2014 to the Human Rights Council (A/HRC/26/32). She noted that judicial independence and judicial accountability are both essential elements of an independent, impartial, efficient and transparent justice system. Judicial accountability must nevertheless never be used to arbitrarily undermine the independence of judges, and, for that reason, any accountability procedures must be in line with international standards of due process and fair trial.

53. In addition, the Special Rapporteur has paid particular attention to the representation of women on the bench (see A/HRC/17/30 and Corr.1 and A/66/289). Women historically have been excluded from judicial office and are still largely underrepresented, particularly in the highest positions. Yet, since the primary function of the judiciary is to promote equality and fairness, the composition of courts must reflect the diversity of the pluralistic society and communities they

serve, so as to preserve and improve public trust and confidence in its credibility, legitimacy and impartiality (see A/66/289, paras. 23 and 26).

54. A diverse judiciary will ensure a more balanced and impartial perspective on matters before the courts, eliminating barriers that have prevented some judges from addressing certain issues fairly. Women sitting on panels of judges also have the potential ability to gain their male colleagues' support for issues relating to gender discrimination. That reasoning is equally applicable to the matter of encouraging the representation of underrepresented groups, such as ethnic, racial or sexual minorities, among others. The strongest impact of women's participation as members of the judiciary is perhaps exerted through the role they have played, and continue to play, in shaping and interpreting both national and international law relating to gender-based violence, including rape and other forms of sexual violence (see A/66/289, paras. 27, 31 and 32).

55. The Special Rapporteur has relentlessly advocated, in particular during her country visits, for States to provide to women the same rights and opportunities to join the legal profession and become judges, and to take urgent measures to address gender-based discrimination in the judiciary. She has also pointed to the need to guarantee promotion opportunities for women judges so that they can continue developing their careers and ascend to the higher courts.

56. The Special Rapporteur remains concerned that, as observed in many country reports and communications, many of the fundamental guarantees of judicial independence are still being violated throughout the world on a daily basis. She is particularly concerned about serious interference in the separation of powers and the independence of judges, including executive and/or legislative interference in the selection and appointment of judges or the work of judicial councils, and the inappropriate use of disciplinary and criminal proceedings against judges.

D. Protecting the independence of lawyers

57. The Special Rapporteur has persistently recalled the essential role that lawyers play in a democratic society based on the rule of law, the separation of powers and the independence of the judiciary. The independence of lawyers and their ability to exercise their functions effectively and in compliance with the ethics of their profession directly contributes to upholding human rights, and in particular due process of law and fair trial guarantees. During her mandate, the Special Rapporteur has striven to build upon the prerequisites and safeguards, identified in the last report of her predecessor (A/64/181), that are essential for lawyers to freely and effectively discharge their professional functions.

58. Those prerequisites and safeguards include domestic legislation regulating the role and activities of lawyers and the legal profession in line with international standards, norms and guidelines on the matter; objective and transparent processes of admission to the bar; the organization of the legal profession into independent bar associations; ethical rules and disciplinary measures in line with international standards on the matter; quality legal education and adequate opportunities for training; respect for the confidential nature of the lawyer-client relations; the need to have access to relevant information; safeguards from unlawful interference in the work of lawyers and for their security; and respect of lawyers' rights to freedom of opinion, expression and assembly (see A/64/181).

59. Wherever relevant, the Special Rapporteur has addressed the fundamental role that lawyers play, the specific safeguards that need to be in place to protect them and their independence and their duties, including with regard to upholding international human rights law. For instance, she reaffirmed the importance of setting up guarantees to enable lawyers to discharge their duties in an independent manner, protected from pressure and interference from public or private actors in the context of judicial corruption (see A/67/305). She discussed the role of lawyers and bar associations with regard to the provision of legal aid (see A/HRC/23/43 and Corr.1). In her report on judicial accountability (A/HRC/26/32), she also briefly addressed the need for fair and transparent mechanisms to hold lawyers accountable with regards to their professional ethics and codes of conduct.

60. In her most recent report to the Human Rights Council, the Special Rapporteur emphasized that lawyers have a professional responsibility towards children and should therefore acquire the special skills to be able to take into account the unique attributes and needs of child clients in order to effectively deliver child-friendly legal aid. For that reason, she underlined that lawyers representing children should be appropriately trained and that their codes of conduct should provide specific guidance regarding the representation of children, including concerning the nature of the relationship between the lawyer and child and the possible conflict between the duty of representation and the duty to act in the child's best interests (see A/HRC/29/26, paras. 38 and 40).

61. The Special Rapporteur has also consistently scrutinized the specific situation of lawyers during her country visits. The majority of her country visit reports contain a section focusing on lawyers and the respective concerns identified by the Special Rapporteur, as well as recommendations specific to lawyers and the legal profession. She has constantly emphasized that, while lawyers are not expected to be impartial in the same way that judges are, they must be as free from external pressures and interferences as judges are. In many country reports, she has highlighted the importance of an independent and self-regulating bar association or council that oversees the process of admitting candidates to the bar, provides for a uniform code of ethics and conduct and enforces disciplinary measures, including disbarment. Bar associations not only provide an institutional protection for its members against undue interference in their work, but also monitor and report on their members' conduct, ensuring their accountability and applying disciplinary measures in a fair and consistent manner.

62. The Special Rapporteur remains concerned about the general situation of lawyers around the world, as throughout her six-year tenure she has recorded an enormous number of allegations of attacks, harassment, intimidation, criminal prosecution and killings of lawyers; restrictions on their freedom of opinion and expression; arbitrary disbarments; and instances of attempts at limiting the independence of lawyers by way of legislative projects and amendments. Very often impunity prevails for such attacks, generating a chilling effect that negatively affects the environment in which lawyers work. She hopes that her successor will commit to looking into the situation of lawyers in more detail and bring renewed attention to the plight of the many lawyers who risk everything they have, even their lives, to defend the rights of their clients.

E. Safeguarding the independence and impartiality of prosecutors and the autonomy of prosecution services

63. As requested by Human Rights Council resolution 15/3, the Special Rapporteur addressed the independence and impartiality of prosecutors and prosecutions services in her report of 2012 to the Human Rights Council (A/HRC/20/19). The Special Rapporteur has also looked at the functioning of prosecutorial services and the need to safeguard the independence and impartiality of prosecutors during all her country visits, sometimes pointing to serious structural or situational concerns.

64. Prosecution services should be autonomous and prosecutors should perform their functions in an independent, objective and impartial manner, in compliance with the law and international legal principles, including the fundamental principle of the presumption of innocence. In particular, it is important that the prosecution service in any given State is autonomous from judicial functions, which is outlined in the Guidelines on the Role of Prosecutors, in particular principles 10 and 12. Even prior to the issuance of her thematic report, the Special Rapporteur sought to reiterate the importance of the autonomy of judicial and prosecutorial functions during her country visits.

65. The independence and impartiality of prosecutors must be safeguarded, including by an appropriate process of appointment and promotion based on objective criteria. Prosecutors should be appointed in a way that maximizes their autonomy from the executive functions of the State and allows them to act with the independence and impartiality necessary to the fair administration of justice. The lack of autonomy can erode the prosecutor's credibility for investigating crimes objectively and thereby undermine the public's confidence.

66. The security of tenure for prosecutors is a particularly important aspect of the working conditions of prosecutors that reinforces independence and impartiality. The Special Rapporteur has observed that, in certain countries, unwarranted transfers of prosecutors between locations results in unjustifiable interference in their independence. Threats to transfer prosecutors to other posts are often used as a means to exercise undue pressure on them. Further, the Special Rapporteur has expressed particular concern at "transfer systems", which can be used as a punishment or reward mechanism depending upon the perceived allegiance of an individual prosecutor.

67. In order to safeguard prosecutors, their removal from office or dismissal should be closely monitored and subject to strict requirements that do not undermine their autonomy or impartiality. For internal disciplinary matters and complaints against prosecutors, there should be a framework in place to avoid arbitrary interference. Prosecutors must also be able to challenge all decisions concerning their career, including legal challenges and those decisions resulting from disciplinary proceedings.

68. The remuneration and conditions of service of prosecutors affect their ability to discharge their duties. The Special Rapporteur has noted that appropriate remuneration of prosecutors implies recognition of their important function and can reduce the risk of corruption in the criminal justice system and among prosecutors.

69. In the discharge of their duties, prosecutors have a discretionary power in deciding which cases are brought to trial. However, the Special Rapporteur has stressed the necessity of clear guidelines to ensure that such discretion is exercised appropriately. Guidelines are necessary in order to develop an understanding among prosecutors that their discretionary power is not absolute and that, when deciding on the prioritization of cases, reasonable justification must always be provided for why a given case has been pursued or discontinued. The guidelines function as a safeguard because they act to prevent unfairness and arbitrariness from entering the decision-making process. Abuses of prosecutorial discretionary powers must be diligently and appropriately investigated and sanctioned.

70. Prosecutors are also often directly exposed to security risks, particularly when dealing with sensitive cases, such as those related to organized crime or terrorism. Prosecutors who fear for their personal security or that of their families cannot remain independent and impartial in the performance of their duties. It is therefore essential that the State take steps towards ensuring the full protection of prosecutors and their families.

71. The work of prosecutors is greatly affected when impunity is prevalent. Prosecutors must be in a position to bring cases against anyone without fear for their personal security. Only through bringing all relevant cases to trial can prosecutors discharge their professional duties properly, tackle impunity and contribute to the protection and promotion of human rights.

72. The Special Rapporteur has also observed that prosecutors must ensure that only appropriate evidence is used when a case is brought to trial. In particular, prosecutors must not use evidence that has been obtained through illegal means, such as torture. In order to avoid that and to ensure that evidence comes from legitimate and legal sources, the Special Rapporteur has insisted that positive working relationships must be fostered between prosecutors and investigators. Prosecutors must also ensure that the evidence gathered will be sufficient to sustain criminal charges. Unfortunately, the Special Rapporteur must report that, during the course of her mandate, she has come across many situations where the process of acquiring evidence has not met international standards.

73. The Special Rapporteur has further addressed issues related to the role of prosecutors and their independence and impartiality where relevant in several of her thematic reports, including when she discussed the specific measures that must be taken for prosecutors to respect the rights of women (see A/66/289) or children (see A/HRC/29/26 and Corr.1) in contact with the criminal justice system, or to fight impunity for human rights violations through domestic courts (see A/65/274).

F. Equality before the courts and fair trial guarantees

74. The independence of judges and lawyers, and the mandate of the Special Rapporteur, has long been established as central to the respect for the right to equality before the courts and fair trial guarantees. The right to equality before the courts and tribunals aims to guarantee equal access to the administration of justice. That provision not only requires States to prohibit any distinction with regard to access to courts and tribunals that are not based on law and cannot be justified on objective and reasonable grounds, but also requires them to take positive measures

to ensure that no individual is deprived of his or her right to claim justice (see A/HRC/23/43, para. 80).

75. The Special Rapporteur has constantly addressed challenges related to the implementation of the right to equality before the courts and violations to due process of law and fair proceedings. She has voiced her concerns in a large number of communications sent to States across all regions. She has also looked in detail at the way justice is administered and paid particular attention to the existence and implementation, or lack thereof, of guarantees to ensure a fair hearing before a competent, independent and impartial tribunal established by law to all in all the States she visited in an official capacity. Her many findings and recommendations are found in her country visit reports.

76. When it comes to her thematic reports, the Special Rapporteur has discussed the serious concerns raised with regard to fair trial guarantees when civilians are prosecuted before military tribunals (see A/68/285). She noted that using military or emergency courts to try civilians in the name of national security, a state of emergency or counter-terrorism is a regrettably common practice that runs counter to all international and regional standards and established case law (see A/68/285, para. 46).

77. Article 14 of the International Covenant on Civil and Political Rights established that everyone should be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. In that context, and in line with General Comment No. 32 of the Human Rights Committee on the right to equality before courts and tribunals and to a fair trial, the Special Rapporteur emphasizes that provisions of article 14 of the Covenant apply to all courts and tribunals whether ordinary or specialized, civilian or military.

78. In her report, the Special Rapporteur has highlighted that the trial of civilians by military or special courts raises serious issues in relation to the independent administration of justice and respect for the guarantees stipulated in article 14 of the Covenant. Indeed, the particular nature, status, structure and composition of military tribunals often prevents full respect for the fundamental rights of the accused, in particular with regard to the right to be represented by a lawyer of one's choice and to have the confidentiality of one's communication with counsel fully guaranteed, respect for the principle of equality of arms and the right to appeal one's conviction and sentence.

79. While the position of military courts varies from country to country, the Special Rapporteur has been unequivocal when stressing that, in spite of national peculiarities, the only purpose of military tribunals should be to investigate, prosecute and try offences of a strictly military nature committed by military personnel.

80. The Special Rapporteur has also addressed in detail the necessity to set up rules of procedures and guarantees that are gender-sensitive in order to ensure the equality of women before the courts (see A/66/289). Women, particularly those who are in conflict with the law, must benefit from all provisions associated with the right to a fair trial and equality before the courts without discrimination based on their gender, or any other grounds of discrimination prohibited under international law (see A/66/289, para. 74).

81. The Special Rapporteur noted the existence of provisions of criminal law that are discriminatory to women, as well as the discriminatory application of provisions against women during criminal proceedings, in many States. Examples of discriminatory provisions include the criminalization of adultery or fornication, punishing illegal entry and the prostitution of victims of trafficking, punishing girls for sexual intercourse with relatives in cases of incest and the criminalization of abortion, including in cases of miscarriage or threat to the life and health of the mother. When they uphold and apply such discriminatory laws, judges and prosecutors themselves become parties to the violation of the State's international obligations (see A/66/289, para. 74).

82. In order to realize women's equality before the courts in practice, it is essential for the Special Rapporteur that judges, prosecutors and lawyers be sensitized to and trained on gender issues and the international human rights of women, including principles of equality and non-discrimination. Beyond that, judges must also be in a position to challenge gender stereotyping and discrimination when they encounter it if inequality of women before the law is to be successfully fought. They must take steps to prevent, for example, the wrongful charging of female suspects, charges brought against women without any supporting evidence and mis-charging a particular form of conduct, such as charging abortion as infanticide (see A/66/289, para. 75).

83. More recently, the Special Rapporteur paid particular attention to the importance of developing child-sensitive justice systems to guarantee the effective implementation of all children's rights, and in particular to ensure that judicial proceedings are fair to them (see A/HRC/29/26 and Corr.1).

84. She noted that, despite the abundance of international treaties, rules, guidelines and principles protecting children's rights, the treatment of children in judicial proceedings is generally unsatisfactory. States have international obligations to ensure that the treatment of children before the courts is fair. Yet, too often justice systems, and in particular criminal justice systems, are designed for adults and have not integrated the specific procedural safeguards owed to children (see A/HRC/29/26, para. 54). She noted that, at the very minimum, every child alleged as or having infringed the penal law should be granted the guarantees enumerated in article 40, paragraph 2 (a) and (b), of the Convention of the Rights of the Child.

G. Impunity for human rights violations

85. Early in her mandate, the Special Rapporteur built upon the work of her predecessor with regard to the issue of impunity for human rights violations. She devoted a full annual report on the need to develop an independent, impartial and effective criminal justice systems in order to combat impunity and considered the specific roles the different judicial actors must play therein (A/65/274).

86. In that report, the Special Rapporteur sought to clarify the international standards on impunity and reiterated that States bear a responsibility not only to investigate gross violations of human rights, but also to ensure the right of victims to know the truth, provide adequate reparation and take all reasonable steps to ensure non-recurrence of the said violations. She also strove to highlight cases of particular concern regarding respect for the rule of law where impunity is directly linked to the action, or is facilitated by the inaction, of judges or those linked to the criminal justice system.

87. Challenges to combating impunity exist at all stages of the criminal justice system, including at the investigative, prosecution and adjudication levels. In the initial stages, investigations must be conducted in an effective and prompt manner. Investigators must have the capacity to investigate with sufficient resources as well as training and readily available finances. Criminal justice systems must strive to make use of the most advanced technological resources available in order to improve their forensic investigative capacity.

88. At the level of prosecution, impunity for human rights violations is prevalent when cases are not brought before courts. The failure to prosecute may occur for a variety of reasons, including insufficient resources, inadequate professional capacities, poor conditions of service, understaffing, lack of independence and security concerns.

89. As noted above, in many States prosecutors possess discretionary powers to determine which cases will be prioritized and proceed to trial, and which will be discontinued. The Special Rapporteur emphasized that such powers are not absolute and that there should be clear guidelines on how a decision is made regarding the discontinuance or prioritization of cases in order to avoid arbitrariness and impunity.

90. At the judicial level, impunity may arise if there is undue political interference in the functioning of the criminal justice system and restrictions placed on the exercise of judicial authority. To combat that, it is essential that States respect and observe the independence of the judiciary. Without such independence, there is no guarantee of the rule of law or democracy and there is a greater probability of impunity existing within the criminal justice system.

91. States must also provide adequate resources to enable the judiciary to properly perform its functions and prevent the emergence of impunity. The Special Rapporteur has found that a lack of resources can discourage judges from discharging their functions and constrain the capacity of the judiciary to adjudicate cases in a timely manner, which consequently undermines the entire justice system. Recognizing that many States, particularly those in transition, are financially constrained, she nevertheless has advocated for the prioritization of adequate funding for the judiciary and the administration of the courts.

92. The Special Rapporteur noted that another obstacle to combating impunity is the inability or unwillingness to enforce judicial decisions and orders. A judicial decision that is not enforced defeats the purpose of seeking recourse from the judicial system, as a remedy cannot be obtained in practice.

93. The Special Rapporteur also addressed the issue of impunity for human rights violations in the context of her report on military tribunals (A/68/285). While examining challenges regarding the independence and impartiality of military courts, she noted that the administration of justice through military tribunals often raises serious concerns with regard to impunity for human rights abuses.

94. Looking at the subject-matter jurisdiction of military tribunals, the Special Rapporteur explained that the competence of military tribunals to try military personnel accused of offences involving serious human rights violations is an essential issue that is the subject of disagreement among human rights and military practitioners. She emphasized that the jurisdiction of military tribunals must be restricted solely to specifically military offences committed by military personnel.

excluding of human rights violations, in line with the updated set of principles for the protection and promotion of human rights through action to combat impunity. Human rights violations committed by military personnel must come under the jurisdiction of ordinary domestic courts or, where appropriate, in the case of serious crimes under international law, of an international or internationalized criminal court (see A/68/285, paras. 63 and 64).

95. Moreover, in all circumstances, the jurisdiction of military tribunals should be set aside in favour of the jurisdiction of the ordinary courts to conduct inquiries into serious human rights violations, such as extrajudicial executions, enforced disappearances and torture, and to prosecute and try persons accused of such crimes, in line with principle 9 of the draft principles governing the administration of justice through military tribunals. Military jurisdiction over allegations of human rights violations also constitutes a serious obstacle for many victims of human rights violations in their quest for justice.

96. The Special Rapporteur also looked in detail at the issue of impunity for violations of women's rights, in particular rape and sexual violence (see A/66/289). She noted that in many States legal provisions on rape and sexual assault are based on gender stereotypes and prejudices that result in the discriminatory treatment of victims, who are disproportionately female. As a result, in many parts of the world women struggle to secure convictions against perpetrators of rape and sexual violence, which gives rise to a significant problem of impunity.

97. Perpetrators of rape and sexual violence often escape punishment thanks to gender-biased criminal rules of evidence, such as a requirement of proof of physical violence to show that there was no consent, or ingrained stereotypes, such as that women are more likely to lie. In order to combat impunity and secure convictions of rapists and those who perpetrate sexual violence, it is clear that national criminal justice systems must cease to follow such gender-biased rules of evidence. During her mandate and particularly during country visits, the Special Rapporteur has continuously encouraged national authorities to amend discriminatory laws against women and adopt gender-sensitive rules of procedures within their criminal justice systems.

IV. Conclusions

98. In 1995, in his first report to the Commission on Human Rights, as it was known then, the first Special Rapporteur on the independence of judges and lawyers observed that the requirements of independent and impartial justice are universal and rooted in both natural and positive law. He further asserted that judicial independence and impartiality constitute international custom in the sense of article 38, paragraph 1, of the Statute of the International Court of Justice (see E/CN.4/1995/39, paras. 32 and 35).

99. Judicial independence and impartiality also constitute a conventional obligation, as shown by the requirement of a "competent, independent and impartial tribunal" established in article 14, paragraph 1, of the International Covenant on Civil and Political Rights, which, as asserted by the Human Rights Committee, is an absolute right that is not subject to any exception (see CCPR/C/GC/32, para. 19). Moreover, as enshrined in the Bangalore Principles

of Judicial Conduct, judicial independence is a prerequisite to the rule of law and a fundamental guarantee of a fair trial.

100. Without independence of the judiciary, there is no separation of powers, and without separation of powers there can be no genuine rule of law or democracy. It is the separation of powers, together with the rule of law, that opened the way to an administration of justice that provides guarantees of independence, impartiality and transparency.

101. The importance of separation of powers cannot be understated. If actors in the judicial system are unable to perform their duties independently, or if the procedures of the courts are not respected, there is the potential for unbridled power in the hands of a few. Unlimited power tends to lead to abuse, particularly when prolonged over time and in the hands of a few institutions or individuals. The principle of separation of powers is the result of a historical process that has marked the evolution of human society and is oriented towards the control and limitation of State power. The branches of the State, reciprocally limiting and controlling each other, constitute a guarantee against leanings towards absolutism. The existence of that system of balances and distribution of functions still constitutes today an indispensable prerequisite for a democratic society.

102. It is important to highlight that the independence of the judiciary is not a permanent state secured by the adoption of adequate norms and practices. Ensuring the independence of the judiciary requires continuous attention and monitoring to identify and tackle newly emerging problems and challenges that jeopardize judicial independence and impartiality as well as the rights of those who come into contact with the justice system. The independence of judges, prosecutors and lawyers and the proper administration of justice require constant attention and further investment so that judicial actors and institutions can respond adequately to societal changes.

103. An independent and competent judiciary also requires a pre-established procedural system, organized and coherent, which adequately guarantees equality before the law and the legal security of all. The existence of the rule of law is questioned when guarantees of due process are lacking or ignored, when the rights of defendants and detainees are no longer guaranteed and when large areas of public activity are left outside the reach of legal remedies.

104. In 2015, we celebrate the thirtieth anniversary of the Basic Principles on the Independence of the Judiciary and the twenty-fifth anniversaries of both the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors. Looking towards the future, it is the Special Rapporteur's duty to plead for renewed attention to and the promotion of existing international laws, standards, principles and guidelines on judicial independence and impartiality and the independence of the legal profession.

105. In the light of what the Special Rapporteur has witnessed during her mandate, those three instruments, together with the Bangalore Principles on Judicial Conduct and relevant conventional provisions, in particular article 14 of the International Covenant on Civil and Political rights, remain absolutely essential to the promotion and protection of the independence of judges, lawyers and prosecutors throughout the world. The most fundamental rights of

judges, lawyers and prosecutors are still blatantly violated on a daily basis across the world, and that should deserve the full attention of Member States.

106. Undoubtedly, when the administration of justice fails, impunity takes over and the consequences can be dramatic. Impunity undermines democracy, the rule of law, people's trust in State institutions and opportunities for development. Furthermore, weak judicial systems that fail to guarantee access to justice for all lead to situations in which the most marginalized groups of the population are excluded from the judicial system, which places them in a position of need rather than empowerment.

107. Therefore, it is crucial that all States place justice at the centre of their priorities and, to that end, effectively recognize the importance of an independent and impartial judiciary, respecting both the role of the judiciary in upholding the rule of law and democracy and in guaranteeing an efficient delivery of justice for all. In that sense, the Special Rapporteur wishes to highlight that the inclusion of access to justice in the post-2015 development agenda would be an important first step in encouraging States to pay more attention to the justice system and its functioning.

108. To conclude, the Special Rapporteur would like to once again underline the importance and centrality of the mandate of the Special Rapporteur on the independence of judges and lawyers to the promotion of all human rights by recalling the Vienna Declaration and Platform for Action, unanimously adopted at the World Conference on Human Rights on 25 June 1993, and which clearly and concisely stated that:

Every State should provide an effective framework of remedies to redress human rights grievances or violations. The administration of justice, including law enforcement and prosecutorial agencies and, especially, an independent judiciary and legal profession in full conformity with applicable standards contained in international human rights instruments, are essential to the full and non-discriminatory realization of human rights and indispensable to the processes of democracy and sustainable development.

109. The Special Rapporteur encourages Member States and all relevant stakeholders and institutions to continue to seriously consider the many recommendations put forward over the years in her annual thematic reports, as well as the specific recommendations contained in country visit reports. Complacency should not overcome the absolute necessity to closely monitor the independence of the judiciary and the administration of justice and to take appropriate and prompt measures to address the challenges and problems identified.